

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1692**

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**Introduced by Assembly Members Bill Berryhill and Logue**

January 27, 2010

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An act to amend Section 13332.18 of, and to add Section 13332.185 to, the Government Code, relating to the General Fund.

LEGISLATIVE COUNSEL'S DIGEST

AB 1692, as amended, Bill Berryhill. General Fund: fines.

Under existing law, with specified exceptions, revenues derived from the assessment of fines and penalties by any state agency may not be expended unless the Legislature specifically provides authority for the expenditure of these funds in the annual Budget Act or other legislation. Existing law directs that various fines and penalties be deposited in various special funds related to the agency that collected the revenue. Existing law creates the General Fund to consist of money received into the State Treasury that is not required by law to be credited to any other fund.

This bill would require, notwithstanding any other law, that any fine or penalty imposed by the Department of Toxic Substances Control, ~~the Division of Occupational Safety and Health in the Department of Industrial Relations~~, the State Air Resources Board, or the State Water Resources Control Board for a violation of a regulation adopted by that state agency be deposited into the General Fund. The bill would also make a statement of findings.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) The agencies, boards, departments, and offices  
2 of the state generally strive to promulgate regulations that benefit  
3 the people of the state.

4     (b) The people of the state expect that their government will  
5 enact laws and promulgate regulations to protect the health and  
6 welfare of the people of this state and that these laws and  
7 regulations will tend to maximize benefits to society while  
8 minimizing costs.

9     (c) Administrative and regulatory actions can have significant  
10 and far-reaching consequences for individuals, nonprofit  
11 organizations, and businesses throughout the state.

12     (d) When the law allows the same agency responsible for  
13 seeking out violations and imposing fines to directly benefit by  
14 placing fine moneys in its operating budget, it provides an incentive  
15 for the agency to act in a manner that raises a question as to the  
16 motivation for enforcement of regulations.

17     (e) It is the exclusive province of the Legislature to determine  
18 the ~~budget~~ *budgets* of state agencies, and, especially in times of  
19 economic despair, an agency should not be permitted to fill a  
20 budget shortfall by increasing collection of fines through regulatory  
21 activity.

22     (f) The primary object of enforcement of regulations  
23 promulgated by agencies is for the protection of the people of this  
24 state, and any fines collected from enforcement of these regulations  
25 should revert to the General Fund so the Legislature may determine  
26 how those moneys will best serve the people of this state.

27     SEC. 2. Section 13332.18 of the Government Code is amended  
28 to read:

29     13332.18. (a) Notwithstanding any other provision of law,  
30 and except as specified in subdivision (b) and in Section 13332.185,  
31 revenues derived from the assessment of fines and penalties by  
32 any state agency shall not be expended unless the Legislature  
33 specifically provides authority for the expenditure of these funds  
34 in the annual Budget Act or other legislation. A fine or penalty is  
35 a charge imposed by an agency or department for wrongdoing, in  
36 excess of the cost of investigating, processing, or prosecuting the  
37 conduct for which the charge is assessed, or the cost of collecting  
38 it. A charge reasonably related to a service provided by a

1 department or agency is not a fine or penalty for purposes of this  
2 section.

3 (b) This section shall not apply to the following:

4 (1) Any governmental cost fund if the use of revenues subject  
5 to this section that are deposited in that fund for General Fund  
6 purposes is prohibited by the California Constitution or the United  
7 States Constitution.

8 (2) Late charges collected by state agencies.

9 (3) Funds collected by a state agency that are required to be  
10 maintained by that agency for purposes of administration of a  
11 federal program.

12 (4) A fund established for restitution to victims of the conduct  
13 for which the fine or penalty was imposed or for repairing damage  
14 to the environment caused by the conduct for which the fine or  
15 penalty was imposed.

16 (5) The following funds, though the omission of any other fund  
17 from the list contained in this paragraph shall not be grounds for  
18 inferring the applicability of this section:

19 (A) The Fish and Game Preservation Fund.

20 (B) The Restitution Fund.

21 (C) The Peace Officers' Training Fund.

22 (D) The Driver Training Penalty Assessment Fund.

23 (E) The Corrections Training Fund.

24 (F) The Local Public Prosecutors and Public Defenders Training  
25 Fund.

26 (G) The Victim-Witness Injury Fund.

27 (H) The Traumatic Brain Injury Fund.

28 (I) The Industrial Relations Construction Industry Enforcement  
29 Fund.

30 (J) The Workplace Health and Safety Revolving Fund.

31 (K) The Oil Spill Response Trust Fund.

32 (L) The Oil Spill Prevention and Administration Fund.

33 (M) The Environmental Enhancement Fund.

34 (N) The Recovery Account of the Real Estate Fund.

35 (O) The Motor Vehicle Account in the State Transportation  
36 Fund.

37 (P) The State Highway Account in the State Transportation  
38 Fund.

39 (Q) The Motor Vehicle License Fee Account in the  
40 Transportation Tax Fund.

1 (R) Funds for programs established pursuant to the Food and  
2 Agricultural Code that can be terminated through an industry  
3 referendum vote.

4 (c) For the purposes of this section, revenues derived from the  
5 assessment of fines and penalties includes interest accrued from  
6 the assessment of the fines and penalties.

7 SEC. 3. Section 13332.185 is added to the Government Code,  
8 to read:

9 13332.185. (a) The applicability of this section is limited to  
10 the Department of Toxic Substances Control, ~~the Division of~~  
11 ~~Occupational Safety and Health in the Department of Industrial~~  
12 ~~Relations~~, the State Air Resources Board, and the State Water  
13 Resources Control Board.

14 (b) Notwithstanding Section 13332.18 or any other law, a fine  
15 or penalty imposed by a state agency included in subdivision (a)  
16 for a violation of a regulation adopted by that state agency shall  
17 be deposited into the General Fund.